

PCB JU 06-08

Sovereign immunity

2006

1 A bill to be entitled

2 An act relating to sovereign immunity; amending s. 768.28,
3 F.S.; providing that no contract of the state or its
4 agencies or subdivisions may waive sovereign immunity for
5 tortious conduct of the state or its agencies or
6 subdivisions beyond the limitations of the legislative
7 waiver of sovereign immunity except as expressly provided
8 by general law; declaring contractual provisions in
9 violation to be void; providing severability; providing
10 that the bill is remedial; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (19) of section 768.28, Florida
15 Statutes, is amended to read:

16 768.28 Waiver of sovereign immunity in tort actions;
17 recovery limits; limitation on attorney fees; statute of
18 limitations; exclusions; indemnification; risk management
19 programs.--

20 (19) (a) Except as otherwise expressly provided by general
21 law, neither the state nor any agency or subdivision of the state
22 waives any defense of sovereign immunity, or increases the limits
23 of its liability, upon entering into any ~~a~~ contractual
24 relationship ~~with another agency or subdivision of the state.~~
25 Such a contract must not contain any provision that requires one
26 party to indemnify or insure the other party for the other
27 party's negligence or to assume any liability for the other
28 party's negligence. This does not preclude a party from requiring
29 a nongovernmental entity to provide such indemnification or

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30 insurance. The restrictions of this subsection do not prevent a
31 regional water supply authority from indemnifying and assuming
32 the liabilities of its member governments for obligations arising
33 from past acts or omissions at or with property acquired from a
34 member government by the authority and arising from the acts or
35 omissions of the authority in performing activities contemplated
36 by an interlocal agreement. Such indemnification may not be
37 considered to increase or otherwise waive the limits of liability
38 to third-party claimants established by this section.

39 (b) Any contractual provision for an indebtedness or
40 liability contracted for in violation of this subsection shall be
41 void.

42 Section 2. The provisions of this act are remedial and, to
43 the extent permitted by law, shall apply to all existing and
44 future contracts of the state or its agencies or subdivisions.

45 Section 3. This act shall take effect upon becoming a law.
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